

**SECOND JUDICIAL DISTRICT COURT
COURT ALTERNATIVES
ARBITRATION PROGRAM**

**INFORMATION & SUGGESTIONS
FOR ARBITRATORS AND SUPPORT STAFF**

PLEASE READ THIS DOCUMENT

A. GENERAL

1. Local Rule LR2-603 outlines the Court-annexed Arbitration Program. This rule, effective September 1, 1992, should answer most questions regarding your role as an arbitrator. If you do not have a copy of Local Rule LR2-603, please call Court Alternatives office (841-7412) and request a copy. A copy can also be sent to you via e-mail (WordPerfect 6.1 for Windows format).

2. If you have support staff, talk with them about the course of the arbitration and your obligation to conduct yourself in a manner consistent with the Code of Judicial Conduct. In particular, use Canons 21-200 (avoidance of impropriety), 21-300 (impartial and diligent performance of duties) and 21-400 (disqualification) for guidance.

3. If an interpreter is needed, the parties may contact the Court Interpreter's Division at 841-5408 or 841-7471.

B. TIMELINES

1. You have **120 days** in which to complete your case and file an Arbitration Award. If it appears that you will not complete the case within 120 days, contact the Court Alternatives office or have the parties submit a stipulated order to the assigned Judge for extension of the 120-day deadline.

2. **Do a conflicts check immediately.** Early conflicts checks are necessary so a replacement arbitrator can be appointed in a timely manner should a conflict arise. Conflicts are addressed in Section (IV) (C)(4) of Local Rule LR2-603.

If a possible or actual conflict is found, disclose such immediately to the parties, and if necessary, call Court Alternatives. Court Alternatives will prepare a proposed order to excuse you if appropriate.

3. Please provide copies of all correspondence to Court Alternatives.

C. COURT FILE DOCUMENTS

1. The court docket sheet for your case is enclosed with your arbitration packet. It lists all documents filed as of the date of your appointment.

2. Immediately upon receipt of this packet, call Court Alternatives at 841-7412 to confirm receipt of your packet. You should review significant documents from the file. **You may request copies of any documents in the court file by calling Civil Clerk at 841-7451.** Copies will be provided to you at no cost and you may request they be mailed to you. You should allow at least two days for copies to be prepared and mailed. If you have any problems getting copies from the Civil Clerk's office, contact the Court Alternatives office (841-7412) for assistance.

D. PRE-HEARING PROCEDURES

1. Pre-trial conference

a. Conduct a telephonic pre-trial conference with the parties to discuss the course of the arbitration. Among other things, determine how pre-trial matters will be handled, when the trial will be held and how much time will be allowed. (The average trial is expected to take no longer than two to three hours.) Use Rule 1-016, NMRA, for guidance in conducting the pre-trial conference. At the conference, remind the parties to review the arbitration rule and note the special arbitration procedures.

b. Set a date, time and place for the trial, in writing. A letter is sufficient.

2. Motions

a. Resolve motions by telephone conference whenever possible. You may require a party to make arrangements for the call and later consider this expense as a cost when awarding costs.

b. Grant continuances only when absolutely necessary. Please note that hearings before a Second Judicial District Court Judge do not necessarily take precedence over your hearings. (See Local Rule LR2-106).

c. You are not required to endorse copies of motions or other documents submitted to you. Motions and your rulings should not be filed with the court.

d. If you are considering entering sanctions against a party, give that party a written deadline for compliance along with the threat of default for failure to meet the deadline. The Court recommends imposing a fine on an attorney only when absolutely required by the circumstances.

3. Discovery

a. Allow sufficient time for discovery, for example, a minimum of 60 days in a recently filed tort case. Limit discovery whenever appropriate pursuant to V(A) (2) of LR2-603.

E. TRIAL PROCEDURES

1. The trial and other hearings may be held in your office or any other suitable location. If you need a space to hold the arbitration hearing, call the State Bar of New Mexico at 797-6000. There is no charge for Court-Annexed Arbitrations.

2. Find out whether any special considerations exist which need to be addressed during trial or other hearings, such as security, access for persons with disabilities, or interpreters. If any special considerations exist, discuss with the parties what accommodations should be made and which party will be responsible. (See Local Rule LR2-112).

3. Determine how you are going to conduct the trial, e.g., the level of formality or informality, whether you want opening and closing statements, how much time you are going to allow for each party, whether you will require witnesses to take an oath, how you will handle claims for attorneys fees, costs, interest, etc. Advise the parties as to these procedures.

4. Determine what you need to know (facts, law) to make a decision in the case and advise the parties. Require briefs only when absolutely necessary.

5. Remind the parties to serve witness and exhibit statements 10 days prior to trial, or notify the parties that you have waived the requirement.

6. Remind the parties that certain documentary evidence can be admitted without foundational witnesses provided copies are served at least 10 days prior to trial and no objections are made. As the Arbitrator, you still weigh the value and credibility of any evidence.

7. The oath used for witnesses in civil cases is in Instruction 13-211 of the Uniform Jury Instructions-Civil (Recomp. 1986): *Do you (and each of you) solemnly swear or affirm under penalty of law that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?*

8. You may allow others, e.g., law students, to watch hearings and the trial for educational purposes. You may receive requests to observe from law students enrolled in Alternative Dispute Resolution classes.

9. You must return exhibits and depositions to the submitting party. You are not required to save any other documents presented to you. You should not file with the Court any evidence presented to you.

F. ARBITRATION AWARD

1. Enclosed in your packet are sample award forms. **Do not use these samples (double-sided pleading not allowed to be filed) make copies as needed.** You may modify the sample awards in any way you wish. Because your award may be adopted by the Court as its judgment and thus be used as the basis of a transcript of judgment or writ of execution, be specific as to the parties for whom and against whom you make the award and as to any amount you award. Name all the parties in the caption; do not use “et al.” **Your award should be entitled “Award”; do not use “Order”, “Judgment”, etc. or it will not be accepted for filing.**

While you may explain your award orally or by letter to the parties, you are discouraged from setting out your rationale in your award. The basis of your award has no effect on appeal and setting out the basis in the award may mislead the parties.

2. You may award an amount greater than \$25,000 based upon the evidence presented to you.
3. Your award must address all parties (all Plaintiffs and all Defendants who have filed an Answer). Do not rule against parties who have not filed an Answer, it is up to the Plaintiff to seek a Default Judgment against such parties.
4. If your award includes costs, be specific as to the amount.
5. If you are entering an award of **default** for a failure of a party to appear before you, you must take evidence on damages, unless the damages are liquidated.
6. If the parties **settle** during the arbitration process, the case may be disposed of in either of the following ways, whichever you and the parties prefer:
 - (a) File an Award of Dismissal Upon Settlement (suggested form enclosed). This Award of Dismissal must be approved by the parties. The Court Alternatives Legal Assistant will prepare and file a judgment adopting this award which will close the case.
 - OR
 - (b) The parties may submit to the assigned Judge any form of stipulated dismissal or judgment or stipulation to judgment. The parties should provide you with an endorsed copy to confirm that the case has been settled.

If one of these two procedures is not completed, you will remain responsible for the arbitration until it is finished. If parties tell you they have settled and that they are going to prepare settlement documents, follow up with them to make sure this step is completed.

G. COMPENSATION

1. After you have finished the arbitration, please submit, within thirty days of filing the Award, your Request for Compensation form to the Court Alternatives office. We will complete our portion of the form and forward it to the Court Accountant. Payment is normally mailed to you within four weeks from the time we submit the Request for Compensation form.
2. The information requested on the form regarding hours spent on the case, the number of hearings and your usual fee is not required for compensation. However, this information is extremely helpful to the court. We appreciate your providing the information requested.

H. COURT ALTERNATIVES STAFF:

David P. Levin,	Director
Janyl Mooney	Paralegal
Nadine Pohl	Paralegal
Tammy Martinez	Paralegal

**Court Alternatives
Second Judicial District Court
PO Box 488
Albuquerque NM 87103
(505) 841-7412
Fax: (505) 841-5457
www.seconddistrictcourt.gov**

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

D-0202-CV-[CASE NUMBER]

**[PLAINTIFF'S NAME],
Plaintiff(s),**

vs.

**[DEFENDANT'S NAME],
Defendant(s).**

**ARBITRATION AWARD
(8312)**

THIS MATTER having been referred by the court to the undersigned Arbitrator pursuant to local rule, the Arbitrator having heard the evidence, the Arbitrator makes the following award:

**In favor of _____
and against _____
in the amount of _____,
plus pre-judgment interest of _____,
plus costs of _____,
plus attorney fees of _____,
for a total award of _____.**

[Arbitrator's signature & address block]

I hereby certify an endorsed copy was mailed or delivered to all parties of record on _____ day of _____, 20____.

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

D-0202-CV-[CASE NUMBER]

[PLAINTIFF'S NAME],

Plaintiff(s),

vs.

[DEFENDANT'S NAME],

Defendant(s).

**ARBITRATION AWARD OF DEFAULT
FOR FAILURE TO APPEAR
(8312)**

THIS MATTER having been referred by the Court to the undersigned Arbitrator and pursuant to local rule,
_____ {Plaintiff(s)/Defendant(s)} having failed to appear for trial,
_____ {Plaintiff(s)/Defendant(s)} having presented evidence as to
damages, the Arbitrator makes the following award:

In favor of _____ and against _____,
in the amount of _____, plus pre-judgment interest of _____,
plus costs of _____, plus attorney fees of _____, for a total
award of _____.

[Arbitrator's signature & address block]

I hereby certify that an endorsed copy was mailed or delivered to all parties of record on the _____ day
of _____, 20____.

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

D-0202-CV-[CASE NUMBER]

[PLAINTIFF(S) NAME],

Plaintiff(s),

vs.

[DEFENDANT(S) NAME]

Defendant(s).

**ARBITRATION AWARD OF DEFAULT FOR
FAILURE TO PARTICIPATE IN GOOD FAITH**

(8312)

THIS MATTER having been referred by the Court to the undersigned Arbitrator, pursuant to local rule, the Arbitrator hereby certifying to the Court that _____
{Plaintiff(s)/Defendant(s)} failed to participate in good faith, and _____
{Plaintiff(s)/Defendant(s)} having presented evidence as to damages, the Arbitrator makes the following award:

**In favor of _____ and against _____
in the amount of _____, plus pre-judgment interest of _____,
plus costs of _____, plus attorney fees of _____, for a
total award of _____.**

(Arbitrator's signature & address block)

I hereby certify that a copy was mailed or delivered to all parties of record on the _____ day of _____, 20____.

**SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO**

D-0202-CV-[CASE NUMBER]

[PLAINTIFF(S) NAME]

Plaintiff(s),

vs.

[DEFENDANT(S) NAME]

Defendant(s).

**ARBITRATION AWARD OF DISMISSAL DUE TO SETTLEMENT
(7014)**

THIS MATTER having been referred by the Court to the undersigned Arbitrator, the Arbitrator having been advised by the undersigned parties that all matters between the parties have been settled, the Arbitrator makes the following award:

This case is dismissed with prejudice with respect to the undersigned parties.

(Arbitrator's signature & address block)

APPROVED:

(Signature block for party)

(Signature block for party)

I hereby certify that a copy was mailed or delivered to all parties of record on the _____ day of _____, 20____.